

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
INVESTOR'S BUSINESS DAILY, INC.,

14 CV 7408

Plaintiff,

ANSWER

-against-

JURY DEMAND  
Judge Roman

MARK A. GRIMALDI and  
PRESTIGE ORGANIZATION, INC.,

Defendants.

-----X

Defendants, Mark A. Grimaldi and Prestige Organization, Inc. by its attorneys  
Corbally Gartland and Rappleyea, LLP, Answer the Complaint as follows:

**NATURE OF ACTION**

1. Defendants deny infringement and all other wrongful acts.
2. Defendants deny that the Plaintiff is entitled to any of the relief requested in its Complaint.

**THE PARTIES**

3. Defendants are without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 3, and on that basis, deny them.
4. Defendants deny so much of Paragraph 6 of the Complaint that alleges that Defendant Grimaldi published a newsletter by the name of *The Money Navigator*.
5. The allegations of Paragraph 7 of the Complaint constitute legal conclusions to which no response is required.

## **JURISDICTION AND VENUE**

6. Defendants do not contest subject matter jurisdiction, personal jurisdiction or venue.

## **FACTUAL BACKGROUND**

7. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 10 of the Complaint.

8. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 12 of the Complaint. To the extent that a copy of a Certificate of a Copyright Registration is annexed as Exhibit B to the Complaint, Defendants respectfully refer this document to the Court for its true meaning and affect.

9. Defendants deny each and every allegation contained in Paragraph 13 of the Complaint.

10. Defendants deny the publication of any Infringing Work as alleged in Paragraph 14 of the Complaint.

11. Defendants deny each and every allegation contained in Paragraph 15 of the Complaint.

12. Defendants deny each and every allegation contained in Paragraph 16 of the Complaint.

13. Defendants deny each and every allegation contained in Paragraph 17 of the Complaint.

14. Defendants deny each and every allegation contained in Paragraph 18 of the Complaint.

15. Defendants deny each and every allegation contained in Paragraph 19 of the Complaint.

16. Defendants deny each and every allegation contained in Paragraph 20 of the Complaint.

17. Defendants deny each and every allegation contained in Paragraph 22 of the Complaint.

18. Defendants deny each and every allegation contained in Paragraph 23 of the Complaint.

19. Defendants deny each and every allegation contained in Paragraph 24 of the Complaint.

20. Defendants deny each and every allegation contained in Paragraph 25 of the Complaint.

21. Defendants deny each and every allegation contained in Paragraph 26 of the Complaint.

22. Defendants deny each and every allegation contained in Paragraph 28 of the Complaint.

23. Defendants deny each and every allegation contained in Paragraph 29 of the Complaint.

24. Defendants deny each and every allegation contained in Paragraph 30 of the Complaint.

25. Defendants deny each and every allegation contained in Paragraph 31 of the Complaint.

26. The allegations of Paragraph 33 of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations of Paragraph 33 of the Complaint.

27. Defendants deny each and every allegation contained in Paragraph 34 of the Complaint.

28. Defendants deny each and every allegation contained in Paragraph 35 of the Complaint.

29. Defendants deny each and every allegation contained in Paragraph 36 of the Complaint.

30. Defendants deny each and every allegation contained in Paragraph 37 of the Complaint.

31. Defendants deny each and every allegation contained in Paragraph 38 of the Complaint.

32. Defendants deny each and every allegation contained in Paragraph 39 of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSES**

33. The “Work” was co-authored by Defendant Mark A. Grimaldi and all copyrights to the “Work” are jointly owned by Plaintiff and Defendant Grimaldi.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSES**

34. The Publication of the Work in the *Money Navigator* constituted fair use.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSES**

35. Plaintiff’s claims are barred by the doctrine of laches.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSES**

36. Upon information and belief, Plaintiff's alleged copyrights are invalid and unenforceable

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSES**

37. Plaintiff's copyright infringement claims are barred by the doctrine of equitable estoppel.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSES**

38. The publication contained only an excerpt of the "Work" and hence any use by Defendants were de-minimis and not actionable.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSES**

39. Upon information and belief, Plaintiff is mis-using its alleged copyright in the action at bar in an attempt to leverage Defendants into discontinuing a prior state court action commenced by the Defendants herein against Plaintiff.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSES**

40. The publication of the excerpt of the "Work" by Defendant Prestige was in good faith and without any intent to infringe.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSES**

41. Defendants reserve their right to rely on any and all judicially recognized defenses under the Copyright Act of 1976 and all amendments and revisions thereto including that the alleged copyrights are invalid, void or unenforceable.

**WHEREFORE**, Defendants pray for judgment dismissing the Complaint in its entirety together with such further legal and equitable relief as this Court deems just and proper.

Dated: Poughkeepsie, New York  
October 3, 2014

CORBALLY GARTLAND AND RAPPLEYEA, LLP

BY:

Vincent L. DeBiase, Esq. (9716)  
35 Market Street  
Poughkeepsie, NY 12601  
(845) 454-1110  
Attorneys for Defendants

TO: BINGHAM McCUTCHEN, LLP  
Stacey Ann Mahoney, Esq.  
399 Park Avenue  
New York, NY 10022-4689  
Tel: 212-705-7273  
Attorneys for Plaintiff

Jonathan Albino, Esq.  
BINGHAM McCUTCHEN, LLP  
One Federal Street  
Boston, MA 02110-1726  
Attorneys for Plaintiff